

# EXHIBIT I

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

RACHEL MILLER; TEXAS DEMOCRATIC  
PARTY; DNC SERVICES CORP., d/b/a  
DEMOCRATIC NATIONAL COMMITTEE;  
DSCC; and DCCC,

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as the  
Texas Secretary of State,

Defendant.

Civil Action No. 1:19-cv-01071

**DECLARATION OF RACHANA DESAI MARTIN IN SUPPORT OF PLAINTIFFS’  
APPLICATION FOR PRELIMINARY INJUNCTION**

I, Rachana Desai Martin, according to 28 U.S.C. § 1746 hereby state:

1. My name is Rachana Desai Martin. I am over 18 years of age, am competent to testify, and declare the following facts based on my own personal knowledge.

2. I am employed by the Democratic National Committee (“DNC”). The DNC is the national committee of the Democratic Party. Its mission is to elect local, state, and national candidates of the Democratic Party to public office, including in and from Texas.

3. I have been employed by the DNC since September 2018, when I was hired as the Director of Civic Engagement and Voter Protection. I have been serving as the DNC’s Chief Operating Officer since February 2019, first in an interim capacity, and since April, in a permanent capacity. Prior to coming to work at the DNC, I was the Director of Voter Protection for the Nevada Democratic Party during the 2016 election. My duties in these positions have required me to become knowledgeable about political strategy related to local, state, and federal elections generally and in Texas specifically, including when I worked as the DNC’s Voter Protection Director, where I worked closely with the voter protection director in Texas.

4. The DNC works to accomplish its mission by, among other things, working closely with Democratic candidates and assisting state parties, providing Get Out the Vote (“GOTV”) assistance, and actively supporting the development of programs benefiting Democratic Party candidates. The DNC has done and intends to continue doing all of these things in Texas. The DNC also supports and participates in what is commonly referred to as the “coordinated campaign,” in which it works collaboratively with the Texas Democratic Party and other national Democratic committees to elect Democrats within the state up and down the ticket.

5. In 2018-2019 alone the DNC invested over \$500,000 in Texas, all with the purpose of supporting Democrats in Texas elections. The DNC’s recent investments in Texas include purchasing millions of new cell phone numbers to reach and engage new voters; supporting GOTV efforts in the state by providing data, texting, phone banking, and providing constituency-specific programming, providing a polling place locator widget; making web trainings available to state party staff and volunteers; providing access to research trainings and resources; sharing voting rights toolkits; maintaining a national voter protection hotline and supporting Texas’s state hotline, and allowing the use of voter protection incident tracking software and other voter protection resources.

6. In addition to the work that the DNC has done and plans to continue to do in Texas to support Democratic candidates up and down the ticket, DNC has 18 members in Texas and millions of constituents who affiliate with and consider themselves to be members of the Democratic Party.

7. I have often heard that it is advantageous for a candidate to have the first position on the ballot. However, neither I nor the DNC were aware that that advantage could be proved by empirical evidence until 2018, when the DNC became aware of recent studies that detailed the effect in elections.

8. Now that the research has established that ballot order has a substantial impact on elections, it is clear to me and the DNC that Texas’s ballot order statute, Tex. Elec. Code § 52.091(b) (the “Ballot Order Statute”), puts the DNC and the Democratic candidates it supports,

as well as its membership and the voters among its membership and constituency, at a severe disadvantage.

9. The Statute requires that, in every general election, all candidates who share their political association with that of the last-elected Governor must be listed first. Because a Republican has held the governorship in Texas for the last 24 years, Democrats and Democratic voters have been systemically and arbitrarily disadvantaged by the preferential treatment that the Ballot Order Statute has consistently given Republicans for decades.

10. In any given election cycle the DNC has a certain amount of money to spend to support Democrats and state parties across the country. Allocation decisions have to be made quickly and their consequences are monumental. Because elections take place on a date certain, if a decision is made not to spend money to support a candidate in any given race, that is not a decision that can be done over at any point in the future.

11. The same is true of allocating resources to combat an elections law, like Texas's Ballot Order Statute, that sets an unlevel playing field from the outset. Although the DNC was aware of research establishing the significance of ballot order in elections in 2018, we had to make certain decisions about how to allocate our resources in advance of that election.

12. In 2018, however, several races up and down the ticket were decided by extremely slim vote margins in Texas. For example, there was only a difference of 2.6 percentage points between Ted Cruz, who won the election for U.S. Senate with 50.9% of the vote, and Beto O'Rourke, who captured 48.3% of the vote. In the 23rd Congressional District, Republican Will Hurd held onto his seat over Democratic challenger Gina Ortiz Jones by obtaining a vote share that exceeded Ortiz Jones' by only 0.44 percentage points—a total of only 926 votes. Republicans also won five other U.S. House races by margins within 5 percentage points from their Democratic opponents, including the 21st Congressional District (2.61), 31st Congressional District (2.91), 24th Congressional District (3.07), 10th Congressional District (4.27), and 22nd Congressional District (4.91).

13. Numerous races for state senate and state representative were similarly close, with seven races for state representative and two for state senate decided by margins within 5 percentage points, including for State Representative District 138 (0.1), State Representative District 108 (0.28), State Representative District 66 (0.58), State Representative District 112 (2.08), State Representative District 67 (2.30), State Senate District 8 (2.36), State Representative District 92 (2.39), State Senate District 17 (4.64), and State Representative District 26 (4.82).

14. I understand that the research consistently shows that ballot order has an impact on all types of elections, but that state legislative races and other races found further down on the ticket are in many cases even more susceptible to ballot order effects. This puts the incredibly close margins by which the above races were decided in even sharper perspective, and threatens severe and irreparable consequences in 2020.

15. This is because in 2018—in a year that was known for its “blue wave” election—Democrats managed, despite the impact of the Ballot Order Statute, to flip 12 seats in the Texas State House, leaving them only nine seats short of a majority. Republicans carried 17 Texas State House districts by single digits in that same election. Thus, control of the Texas House is realistically in reach for Democrats in 2020, if they are allowed to compete on an even playing field.

16. For all of these reasons, it has become unavoidably clear that the Ballot Order Statute not only skews the playing field to the significant advantage of Republicans in Texas, in several recent races it very well could have been outcome determinative.

17. That Texas will have multiple close elections is highly likely to be true again in 2020. Thus, the DNC has become convinced that it must act to attempt to require Texas to hold its future elections, including most immediately in 2020, in a manner that gives similarly-situated major party candidates an equal opportunity to be elected.

18. In 2020, again, the DNC intends to dedicate significant resources to support the Texas Democratic Party and the election of Democratic candidates up and down the ticket in

Texas. In addition to the electoral consequences discussed above, if the Ballot Order Statute is not enjoined, it will have significant impacts on the DNC's resources, in severe and irreparable ways.

19. This is because, as a direct result of the Ballot Order Statute, the DNC will have to commit even more resources to supporting the Texas Democratic Party and the election of Democrats in Texas than it would otherwise have to, to combat the ballot order effect that will give a systemic and arbitrary advantage to every single Republican candidate who runs for those seats. All of those candidates will enjoy that advantage for no other reason than that an entirely different Republican candidate (in this case, Greg Abbott) won the election for Texas Governor two years earlier.

20. The DNC's voter members and constituents are also severely harmed by the Ballot Order Statute. This is because the Ballot Order Statute effectively gives Republican voters more voting power, and dilutes the relative strength of Democratic voters, because of the built-in advantage to the first-listed party.

21. To address the injury to the DNC, its members and voter constituents, and the candidates it supports, and to ensure that Texas's elections are not inherently skewed in favor of the last-elected governor's political party from the outset, Texas should be required to use a ballot order system that gives similarly situated major-party candidates an equal opportunity to be listed first on the ballot. The optimal way to do this would be to rotate the Republican and Democratic candidates' names so that each appears in the first position on an equal number of ballots. But, in any event, Texas should be required to use a system that makes it so that candidates from similarly situated parties have an equal opportunity to be listed first on the ballot in any given election.

22. Texas appears to be aware of the impacts of ballot order, because in its primary elections, it employs a system that, at the very least, makes the assignment of the first position on the ballot in any given race random, by deciding it through a lottery. While this does not create a level playing field in every election because it still means the ballot order is set county-wide so that the candidate lucky enough to "win" the ballot order lottery benefits exclusively from ballot order effects (at least across all the ballots in that county), it is still a substantially better system

than the unrelenting preference that the Ballot Order Statute establishes for a single political party—for over two decades now, the Republican Party—in the general election.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 15, 2019

DocuSigned by:  
  
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Rachana Desai Martin